

**ORDINANCE NO. 18271-09-2008**

**AN ORDINANCE LEVYING ASSESSMENTS FOR THE COST OF CERTAIN IMPROVEMENTS AND/OR SERVICES PROVIDED IN FORT WORTH PUBLIC IMPROVEMENT DISTRICT NO. 12 DURING FISCAL YEAR 2008-09; SETTING CHARGES AND LIENS AGAINST PROPERTY IN THE DISTRICT AND AGAINST THE OWNERS THEREOF; PROVIDING FOR THE COLLECTION OF SUCH ASSESSMENTS; RESERVING UNTO THE CITY COUNCIL THE RIGHT TO ALLOW CREDITS REDUCING THE AMOUNT OF THE RESPECTIVE ASSESSMENT TO THE EXTENT OF ANY CREDIT GRANTED; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Fort Worth, Texas, has heretofore directed that certain improvements and/or services (the "Improvements") shall be provided in the Fort Worth Public Improvement District No. 12 during Fiscal Year 2008-09; and

**WHEREAS**, the boundaries of the improvement district are along the major streets of West Bonds Ranch Road on the North, Business Highway 287 North on the East, the extended Boat Club Road on the West and the City limits on the South.

**WHEREAS**, the improvements to be provided are as follows:

1. an improvement district landscaping, construction and maintenance program consisting of the planting and maintenance of special supplemental landscaping, the maintenance of supplemental irrigation systems, park, lake and fountain maintenance, and special fencing in and along boulevards, parks and open spaces;
2. public events program consisting of special events and holiday lighting;
3. a management program to provide for the administration, management, communications and operation of the district;
4. city administration fee; and

**WHEREAS**, the cost of such improvements is as follows:

	<u>Total Budgeted Costs</u>
Management Fee	10,000
Utilities	6,500
Landscape Maintenance Program	36,000
Communications/Newsletters	500
Marketing	1,200
Social Programs/Holiday Lighting	4,000
Capital Improvements	4,000
Replacements	7,000
Insurance	6,000
Annual Review	800
City Administration	<u>2,000</u>
Total	<u>\$78,000</u>

The total budgeted costs of the improvements are \$78,000. Of this amount, \$56,000 will be funded by assessments collected on privately owned parcels located in the district. The remainder of the costs, \$22,000 will be funded by other

revenue sources, including:

- \$21,000 from prior year's assessments
- \$1,000 paid by the Chapel Hill Venture LLLP Subsidy.

**WHEREAS**, the improvements are fully described in a service, improvement and assessment plan which was considered by the City Council on August 19, 2008 (M&C G-16246) and is on file in the office of the City Secretary; and

**WHEREAS**, the improvements shall be provided by Community Management Associates, Inc. under a contract with the City of Fort Worth; and

**WHEREAS**, \$56,000 of the cost of the improvements shall be assessed against property located in the District and the owners of property, and the balance of the difference between the amount to be assessed and the total cost of the project will be paid by a direct payment from the City of Fort Worth for park maintenance and a subsidy paid by the developer; and

**WHEREAS**, the assessments shall be based on the value of each parcel on January 1, 2008, as determined by the City Council, including the value of the structures on other improvements, with the assessment on each parcel to be determined by applying no more than \$0.19 rate per each \$100 of residential or commercial property value; and

**WHEREAS**, such proposed assessment roll was approved and adopted by the City Council of the City of Fort Worth, and a time and place was set for a hearing, and the proper notice of the time, place and purpose of said hearing was given and said hearing was held at the time and place fixed therefore, to-wit, on the 9th day of September, 2008, at 7:00 p.m. in the Council Chamber in the City Hall in the City of Fort Worth, Texas, and at such hearing various protests and objections were made, and all desiring to be heard were given a full and fair opportunity to be heard, and the City Council, having fully considered all proper matters, is of the opinion that the said hearing should be closed and assessments should be made and levied as herein ordered.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:**

#### **SECTION 1.**

Said hearing be, and the same is hereby, closed and the said protest and objections, and any and all other protests and objections, whether herein enumerated or not, be and the same are hereby overruled.

#### **SECTION 2.**

The City Council, from the evidence, finds that the assessments herein described should be made and levied against the respective parcels of property in the District and against the owners of such property. Such assessments and charges are right and proper and are substantially in proportion to the benefits to the respective parcels of property by means of the improvements in the District for which such assessments are levied and establish substantial justice and equality and uniformity between all parties concerned, considering the benefits received and burdens imposed. The City Council further finds that in each case the property assessed is specially benefited in enhanced value to the said property by means of the said improvements in the District and for which assessment is levied and charge made, in a sum in excess of said assessment and charge made against the same by this ordinance, and further finds that the apportionment of the cost of the improvements is in accordance with the law in force in this City, and the proceedings of the City heretofore had with reference to said improvements, and is in all respects valid and regular. The City Council, from the evidence, further finds that the values of the respective parcels of property on January 1, 2008, are true and correct.

#### **SECTION 3.**

There shall be, and are hereby, levied and assessed against the parcels of property in the District and against the

real and true owners thereof (whether such owners be correctly named herein or not), the sums of money itemized per parcel of property, and the owners thereof, as far as such owners are known.

#### **SECTION 4.**

Where more than one person, firm or corporation owns an interest in any property described herein, each said person, firm or corporation shall be personally liable only for its, her or his pro rata share of the total assessment against such property in proportion to its, his or her respective interest to the total ownership such property, and its, his or her respective interest in such property may be released from the assessment lien upon payment of a proportionate sum.

#### **SECTION 5.**

The several sums above mentioned and assessed against the said parcels of property, and owners thereof, and penalty and interest thereon at the rate prescribed by Chapter 372, Subchapter A, Sections 372.018(b) et seq., of the Local Government Code (the Public Improvements District Assessment Act), together with reasonable attorney's fees and cost of collection, if incurred, are hereby declared to be and are made a lien upon the respective parcels of property against which the same are assessed, and a personal liability and charge against the real and true owners of such property, whether such owners be correctly named herein or not, and the said liens shall be and constitute the first enforceable lien and claim against the property on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims, except state, county, school district and city ad valorem taxes. A copy of this ordinance may be filed with the County Clerk of Tarrant County, Texas, and when so filed shall constitute complete and adequate legal notice to the public concerning the liens hereby assessed against the respective parcels of property and the owners thereof.

The sums so assessed against the respective parcels of property and the owners thereof shall be and become due and payable as follows, to-wit: The assessments shall be payable on or before January 31, 2009, and shall become delinquent if not paid by February 1, 2009. The entire amount assessed against each parcel of property shall bear penalty and interest, from and after February 1, 2009 at the same rate as prescribed by law for any delinquent ad valorem tax until paid.

#### **SECTION 6.**

If default shall be made in the payment of any assessments, collection thereof shall be enforced by suit in any court of competent jurisdiction, and said City shall exercise all of its lawful powers to aid in the enforcement and collection of said assessments.

#### **SECTION 7.**

The total amount assessed against the respective parcels of property, and the owners thereof, is in accordance with the proceedings of the City relating to said improvements and assessments thereof and is less than the proportion of the cost allowed and permitted by the law in force in the City.

#### **SECTION 8.**

Although the aforementioned charges have been fixed, levied and assessed in the respective amounts herein stated, the City Council does hereby reserve unto itself the right to reduce the aforementioned assessments by allowing credits to certain property owners where deemed appropriate. Notwithstanding the City Council has herein reserved the right to issue credits, it shall not be required to issue credits, and will not do so, if same would result in any inequity and/or unjust discrimination.

The principal amount of each of the several assessments levied by the City of Fort Worth, Texas, as hereinafter provided, shall be fixed and determined by deducting from the amount of any assessment herein levied such amount or amounts, if any, as may hereafter be allowed by the City Council as a credit against the respective assessments.

**SECTION 9.**

Full power to make and levy reassessments and to correct mistakes, errors, invalidates or irregularities in the assessments are, in accordance with the law in force in this City, vested in the City.

**SECTION 10.**

All assessments levied are a personal liability and charge against the real and true owners of the property described, notwithstanding such owners may not be named, or may be incorrectly named.

**SECTION 11.**

In any suit upon any assessment or reassessment, it shall be sufficient to allege the substance of the provision recited in this ordinance and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment and reassessment shall not be necessary.

**SECTION 12.**

The assessments levied are made and levied under and by virtue of the terms, powers and provisions of Chapter 372, Subchapter A, Sections 372.001 et seq., of the Texas Local Government Code (the Public Improvements District Assessment Act).

**SECTION 13.**

Should any portion, section or part of a section of this ordinance be declared invalid, inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way impair the remaining portions, sections, or parts of sections of this ordinance, which said remaining provisions shall be and remain in full force and effect.


**SECTION 14.**

That this ordinance shall be cumulative of Ordinance No. 15673 and all other ordinances and appropriations amending the same except in those instances where the provisions of this ordinance are in direct conflict with such other ordinances and appropriations, in which instance said conflicting provisions of said prior ordinances and appropriations are hereby expressly repealed.

**SECTION 15.**

This ordinance shall take effect and be in full force and effect from and after the date of its passage and it is so ordained.

**APPROVED AS TO FORM AND LEGALITY:**

  
Assistant City Attorney

Date: 9-16-08

September 9, 2008  
Adopted

September 9, 2008  
Effective

*City of Fort Worth, Texas*  
**Mayor and Council Communication**

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**COUNCIL ACTION: Approved on 9/9/2008 - Ord. No. 18271-09-2008, 18272-09-2008, and 18273-09-2008**

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**DATE:** Tuesday, September 09, 2008

**LOG NAME:** 17PID12BENHEAR

**REFERENCE NO.: BH-239**

**SUBJECT:**

Benefit Hearing for Fort Worth Public Improvement District 12 (Chapel Hill) Concerning Proposed Budget and Five Year Service Plan, Adoption of the 2008 Assessment Roll, Adoption of Ordinance Levying Assessments, and Adoption of Appropriation Ordinances to Increase Estimated Receipts in the Special Assessment District Fund and Special Trust Fund for Fiscal Year 2008-2009; and Authorize Execution of an Agreement with Chapel Hill of Fort Worth Community Association, Inc., and RTI/Communities Management Associates, Inc., to Manage the District

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**RECOMMENDATION:**

It is recommended that the City Council:

1. Hold a benefit hearing concerning the proposed special assessments on property located in Fort Worth Public Improvement District 12 for Fiscal Year 2008-2009;
2. Approve the attached Public Improvement District 12 budget and five-year service plan for Fiscal Year 2008-2009;
3. Adopt the proposed 2008 assessment roll for Public Improvement District 12;
4. Adopt the attached ordinance which levies the proposed assessment for property located in Public Improvement District 12 for Fiscal Year 2008-2009;
5. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations by \$56,000.00 in the Special Assessment District Fund (Public Improvement District 12 Fiscal Year 2008-2009 Project Account) from available funds;
6. Authorize the transfer of \$2,000.00 for administrative fees from the Special Assessment District Fund (Public Improvement District 12 Fiscal Year 2008-2009 Project Account) to the Special Trust Fund contingent upon the adoption of the proposed 2008 assessment roll;
7. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Special Trust Fund by \$2,000.00 from available funds; and
8. Authorize the City Manager to execute an agreement with Chapel Hill of Fort Worth Community Association, Inc., and RTI/Communities Management Associates, Inc., to provide management and improvement services for Public Improvement District 12 during Fiscal Year 2008-2009 for the sum of \$10,000.00.

**DISCUSSION:**

On March 23, 2004, the City Council adopted Resolution No. 3060 establishing Fort Worth Public Improvement District No. 12 (PID 12).

The purpose of this benefit hearing is to receive comments from the public regarding the Fiscal Year 2008-2009 proposed assessments to be levied on each property in PID 12, to adopt an ordinance levying the proposed assessments and to adopt an appropriation ordinance allocating estimated receipts to the District's fund.

On August 19, 2008, (M&C G-16246) the City Council conducted a public hearing to receive comments on the proposed Fiscal Year 2008-2009 five-year service plan and budget (attached), and provided notice of this benefit hearing.

The improvements and services to be provided and the costs thereof are:

<u>Improvement</u>	<u>Total Budgeted Costs</u>
Management Fee	\$10,000.00
Utilities	\$6,500.00
Landscape Maintenance Program	\$36,000.00
Communications/Newsletters	\$500.00
Marketing	\$1,200.00
Social Programs/Holiday Lighting	\$4,000.00
Capital Improvements	\$4,000.00
Replacements	\$7,000.00
Insurance	\$6,000.00
Annual Review	\$800.00
City Administration	<u>\$2,000.00</u>
Total	\$78,000.00

The total budgeted costs of the improvements are \$78,000.00. Of this amount, \$56,000.00 will be funded by assessments collected on privately owned parcels located in the district by applying a rate of \$0.19 cents to each \$100.00 of property value for residential property.

The remainder of the costs, \$22,000.00, will be funded by other revenue sources, including:

\$1,000.00 from the Chapel Hill Venture LLLP Subsidy  
\$21,000.00 from prior year's assessments

Based on the appraised value of the property and considering the benefits to be received from the proposed improvements, it is the opinion of the City staff that an amount equal to or more than the proposed assessments, upon completion of the improvements will enhance each parcel of property in value.

PID 12 is commonly known as the "Chapel Hill PID" and is located in COUNCIL DISTRICT 7.

#### **FISCAL INFORMATION/CERTIFICATION:**

The Finance Director certifies that upon approval of the above recommendations and adoption of the attached appropriation ordinances, funds will be available in the Fiscal Year 2008-2009 operating budget, as appropriated, of the Special Assessment District Fund, and the Special Trust Fund.

**TO Fund/Account/Centers**

6) 7) FE72 481306 017587001000	\$2,000.00
5) GS87 488342 002512003000	\$56,000.00
5) GS87 539120 002512003000	\$56,000.00
7) FE72 511010 017587001000	\$2,000.00

**FROM Fund/Account/Centers**

6) GS87 539120 002512003000	\$2,000.00
8) GS87 539120 002512003000	\$10,000.00

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**Submitted for City Manager's Office by:**

Tom Higgins (6140)

**Originating Department Head:**

Jay Chapa (6192)

**Additional Information Contact:**Sylvia Flores (8550)

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